

DEFICIENCY PROGRESS REPORT – UPDATE 10

Submitted: June 22, 2010

CUPA: AMADOR COUNTY ENVIRONMENTAL HEALTH DEPARTMENT

Evaluation Date: November 28 and 29, 2007

Evaluator(s): Jennifer Lorenzo (now Ernest Genter), Cal/EPA
Frederick Thomas (now Asha Arora), DTSC
Jeffrey Tkach, OES
Terry Snyder, SWRCB

Update 8 Submittal Date: November 23, 2009

Deficiencies Corrected (Update 8): 2

Status: Deficiencies 10, 11, and 12 remain outstanding

Update 9 Submittal Date: February 25, 2010

Deficiencies Corrected (Update 9): 10

Status: Deficiencies 11 and 12 remain outstanding

Update 10 Submittal Date: June 22, 2010

Deficiencies Corrected (Update 10): 11 and 12

Status: No Deficiencies remain outstanding

Next Progress Report (Update 10) Due: N/A

11. Deficiency: The CUPA is not documenting violations in a manner consistent with the definitions of minor, Class II or Class I as provided in law and regulation.

Corrective Action by November 29, 2007: Beginning November 29, 2007, the CUPA will document all violations on their inspection reports even if the violations are corrected on site.

CUPA Update 1: All violations, even if the violations are corrected on site, are being documented on inspection reports.

Comments to Update 1: DTSC appreciates the CUPA's efforts to document violations. On the next update, due on June 2, 2008, please submit an inspection report or summary of violations that demonstrates violations corrected on site have been documented.

CUPA Update 2: [Refer to deficiency item 12.]

Comments to Update 2: DTSC awaits a positive response with the approval of the CUPA's final I&E Program Plan in August 2008 as the CUPA's current interim inspections are unsatisfactory. In the meantime, DTSC will be reviewing the I&E Program Plan and will make suggested corrections as necessary. Once the I&E Program Plan is approved, DTSC will provide training to the CUPA to help the CUPA implement the final I&E Program

Plan. This should bring the CUPA into compliance from this still outstanding deficiency as quickly as possible.

CUPA Update 3: See response to deficiency number 10.

Comments to Update 3: *This deficiency is corrected contingent upon the CUPA's satisfactory completion of DTSC-provided training, which will occur by December 11, 2008, at the latest.*

CUPA Update 4: The DTSC-provided training has not been scheduled and will probably not occur until early 2009. Full enforcement awaits approval of the Inspection and Enforcement [Program] Plan and the Hearing Authority. Amador County welcomes DTSC [']s help in fully developing a hazardous waste regulatory program.

Comments to Update 4: *See response to deficiency number 10.*

CUPA Update 5: Full enforcement awaits approval of the Inspection and Enforcement [Program] Plan and the Hearing Authority, which defines class I, Class II, and minor violations and establishes a penalty matrix for enforcement in Amador County. Amador County welcomes DTSC help in fully developing a hazardous waste regulatory program.

DTSC Response (Update 5): *See response to deficiency number 10.*

CUPA Update 6: Full enforcement awaits approval of the Inspection and Enforcement [Program] Plan and the Hearing Authority, which defines class I, Class II, and minor violations and establishes a penalty matrix for enforcement in Amador County. Amador County welcomes DTSC help in fully developing a hazardous waste regulatory program. **[In Progress]**

DTSC Response (Update 6): *See response to deficiency number 10.*

CUPA Update 7: Procedures for documenting violations following the Inspection, Enforcement, and Education Plan are in progress.

DTSC Response (Update 7): *See response to deficiency number 10.*

CUPA Corrective Action, (Update 8): Inspection forms for Hazardous Materials Business Plan (HMBP) and Underground Storage Tank (UST) inspections have been revised to indicate the severity (minor, class II, or class I violations) for each inspection category. Hazardous Materials Business Plan inspection forms also incorporate inspections for conditionally exempt small quantity generator (CESQG) hazardous waste facilities and APSA qualified tier 1 facilities inspections, which are conducted as part of the business plan inspection. Facility inspections are followed up by a written review letter describing the violations and requiring the submission of documentation of the violation correction. In some cases a follow up inspection is conducted to confirm correction of the violation. The

revised HMBP and UST inspection forms attached. Revised inspection forms are in preparation for Generator and Tiered Permit inspections.

DTSC Response (Update 8): *A review of the CUPA's inspection form for CESQG is incomplete, but it includes check boxes to identify the minor, Class II or Class I violations. DTSC comments are included within the inspection form (attached). DTSC has also included Hazardous Waste Generator requirements table for your reference.*

CUPA Corrective Action, (Update 9): Training with DTSC staff Asha Arora is scheduled for March 8 and 9, 2010, where both classroom and field training including the inspection of two facilities is planned. DTSC comments on the 2009 Inspection and Enforcement Plan are being reviewed for incorporation in the June 2010 Inspection and Enforcement Plan update. The CESQG inspection sheet comments are being incorporated into to inspection forms.

DTSC Response (Update 9): *DTSC provided both class room and field training including the inspection of two facilities on March 8 and 9, 2010. DTSC looks forward to receive an updated copy of the Inspection and Enforcement Plan and updated CESQG inspection sheet.*

CUPA Corrective Action, (Update 10): The Hazardous Materials Advisory Committee conducted the annual review of the Inspection and Enforcement Plan on April 22, 2010 and approved a revised plan that incorporated DTSC's comments. The Board of Supervisors approved the revised Plan on June 22, 2010. A copy of the revised plan is attached

The DTSC inspection sheet for SQG / CESQG (Hazardous Waste Generator CUPA Inspection Report - A) has been adopted for use in generator inspections.

DTSC Response (Update 10): *This deficiency is considered corrected. However, in the process of correcting this deficiency, including an updated Inspection and Enforcement Plan, DTSC has a few other comments to the I&E Plan (see attached I&E Plan with comments). Some of these comments represent problems with the I&E Plan that are contrary to State law and/or regulation. If these items are not addressed, they could result in deficiencies during the next CUPA program evaluation.*

12. Deficiency: The CUPA is unable to document that all facilities that have received a notice to comply, citing minor violations, have returned to compliance within 30 days of notification. During the file review, it was observed that minor violations did not have a record of return to compliance. The business shall either submit a Return to Compliance Certification in order to document its compliance or, in the absence of certification, the CUPA shall follow up with the business to confirm that compliance has been achieved.

Corrective Action by December 31, 2007: The CUPA shall ensure that facilities, who are cited for minor violations during hazardous waste inspections, have either submitted a Return to Compliance letter or the CUPA will follow up within an appropriate time frame.

CUPA Update 1: CESQG inspections, conducted as part of the HMBP inspections, observed minor violations which were corrected at the time of inspection and noted on the inspection report.

Comments to Update 1: *This deficiency remains outstanding. DTSC appreciates the CUPA's effort at documenting return to compliance for minor violations cited during hazardous waste inspections. As noted in the preliminary corrective action, the CUPA was asked to ensure submittals of Return to Compliance letters or to follow up with the business to ensure compliance. On the next update, due on June 2, 2008, please explain how the CUPA has accomplished this corrective action.*

CUPA Update 2: The absence of an approved I&E Program Plan makes the definition of the violation and appropriate action difficult. Violations are noted on the inspection forms and return to compliance verified through the submittal of appropriate documentation or re-inspection. Copies of March 2008 inspection report, follow up enforcement letter, and return to compliance documentation are being submitted with hard copy of this letter.

General Note – The CUPA has focused the limited resources available on improving the highest priority items identified by Cal/EPA during the CUPA evaluation. A revised Hazardous Materials Ordinance has been approved by the Board of Supervisors. A Hazardous Materials Advisory Committee has been established to provide guidance to the Board of Supervisors on the implementation of the CUPA programs. An agricultural element to the HMBP program has been established. All required UST annual inspections were conducted by ICC certified inspectors. HMBP inspections are scheduled to meet the three year inspection frequency by the end of 2008. A grant has been obtained and consultant retained to update the Hazardous Materials Area Plan. Implementation of the Aboveground Petroleum Storage Program is underway including application for implementation funds from Cal/EPA.

The CUPA recognizes that for each state agency, the particular hazardous materials program being implemented by the agency is of the highest priority. The perspective of a small local agency (rural county with less than the 40,000 population) is slightly different. While all mandated hazardous materials programs are important, it is necessary to prioritize the available resources to address the critical needs and highest potential risk first.

Comments to Update 2: *DTSC awaits a positive response with the approval of the CUPA's final I&E Program Plan in August 2008 as the CUPA's current interim inspections are unsatisfactory. In the meantime, DTSC will be reviewing the I&E Program Plan and will make suggested corrections as necessary. Once the I&E Program Plan is approved DTSC will provide training to the CUPA to help the CUPA implement the final I&E Program Plan. This should bring the CUPA into compliance from this still outstanding deficiency as quickly as possible.*

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Comments to Update 4: See response to deficiency number 10.

CUPA Update 5: Documentation of compliance through letter responses and photographs is being requested in inspection reports for minor violations. Full enforcement awaits approval of the Inspection and Enforcement [Program] Plan and the Hearing Authority.

DTSC Response (Update 5): See response to deficiency number 10.

CUPA Update 6: Documentation of compliance through letter responses and photographs is being requested in inspection reports for minor violations. Full enforcement awaits approval of the Inspection and Enforcement [Program] Plan and the Hearing Authority. **[In Progress]**

DTSC Response (Update 6): *It is encouraging to see that the CUPA has started following upon for minor violations. For training, please see response to deficiency number 10.*

CUPA Update 7: Thank you for your help and encouragement –see response to Number 10.

DTSC Response (Update 7): See response to deficiency number 10.

CUPA Corrective Action, (Update 8): Thank you for your help and encouragement –see response to Number 10.

DTSC Response (Update 8): See DTSC response to deficiency number 10.

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